IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF TEXAS HOUSTON DIVISION

UNITED STATES OF AMERICA	§	
ex rel. Diana Kulwicki	§	
	§	
Plaintiffs,	§	
	§	
	§	CIVIL ACTION NO: 08-485
v.	§	
	§	
RADIOLOGY ASSOCIATES LLP,	§	
et al.	§	
	§	
Defendants.	§	

JOINT STIPULATION OF DISMISSAL WITH PREJUDICE AS TO ALL CLAIMS AGAINST THE CPSST DEFENDANTS

Pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, the undersigned Parties hereby jointly stipulate to the dismissal with prejudice of all claims brought by the United States of America and the State of Texas, by and through qui tam relator Diana Kulwicki, against Defendants Driscoll Children's Hospital, Children's Physician Services of South Texas ("CPSST"), Center for Genetic Services, and Raymond Lewandowski (collectively, the "CPSST-Defendants").

This stipulation has no effect on any claims or allegations against any defendants other than the CPSST Defendants.

On January 17, 2013, the United States filed with this Court a Notice of Partial Intervention and Settlement. (Dkt. # 69). The Notice attached a Settlement Agreement between the CPSST Defendants and the United States, Texas, and the Relator, which expressly stated that the participating parties had settled all of the pending claims against the CPSST Defendants, except for Relator's claims for statutory attorneys' fees, costs, and expenses pursuant to 31

U.S.C. § 3730(d). (*Id.*, Exhibit 1, ¶ II.K). The CPSST Defendants have satisfied their obligations under the settlement agreement.

On May 22, 2013, this Court resolved the only remaining claim against the CPSST Defendants when it granted Relator's Motion for Award and Costs Pursuant to 31 U.S.C. § 3730(d). (Dkt. # 101). Specifically, the Court ordered the CPSST Defendants and their codefendant, Radiology Associates, L.L.P., to pay Relator a specific sum for attorneys' fees and costs. (*Id.* at 14-15). Relator has been paid the full amount of attorneys' fees and costs awarded by the Court's May 22, 2013 order.

Because (1) the CPSST Defendants have complied with their obligations under the Parties' settlement agreement and (2) Relator has received her statutory share of that settlement agreement, along with her attorneys' fees, costs, and expenses, the Parties are required to execute and file this Joint Stipulation of Dismissal With Prejudice regarding all claims against the CPSST Defendants. (*See* Dkt. # 69, Exhibit 1, ¶ III.20).

Conclusion

For the foregoing reasons, the undersigned Parties, through their attorneys, jointly stipulate that the Court should enter an order in the form of the attached proposed order dismissing all claims in this suit against the CPSST Defendants with prejudice.

September 24, 2013 Dated: August 2013

Respectfully submitted, KENNETH MAGIDSON UNITED STAXES ATTORNEY

Jose Vela, Jr Assistant United States Attorney Attorney in Charge Fed ID# 25492 1000 Louisiana, Suite 2300 Houston, TX 77002 713.567.9000 713.718.3303 (fax)

Signed by All Parties that Have Appeared:

Dated: August ___, 2013

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On behalf of the State of Texas

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On behalf of Defendant Radiology Associates,
L.L.P.

Dated: August ___, 2013

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On behalf of Defendant Radiology Associates,
L.L.P.

Dated: August __, 2013

Respectfully submitted, KENNETH MAGIDSON UNITED STATES ATTORNEY

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L.L.P.

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Respectfully submitted, KENNETH MAGIDSON UNITED STATES ATTORNEY

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Corpus Christi, TX 78401
On behalf of Defendant Radiology Associates,
L.L.P.

CERTIFICATE OF SERVICE

I certify that a true and correct copy of the foregoing document was electronically filed and served through the Court's Electronic Case Filing (ECF) System to the following counsel of September 25, record on August 2013:

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Defendants.	§	

[PROPOSED] ORDER OF PARTIAL DISMISSAL

Pursuant to Rule 41(a)(1)(A)(ii) of the Federal Rules of Civil Procedure, the United States has filed a Joint Stipulation of Dismissal With Prejudice, which was signed by all parties who have appeared in this action, as to all claims in this action against Driscoll Children's Hospital, Children's Physician Services of South Texas ("CPSST"), the Center for Genetic Services, and Raymond Lewandowski (collectively, the "CPSST Defendants").

The United States filed a Notice of Partial Intervention and Settlement in this Court, which attached a settlement agreement that resolved all but one claim asserted against the CPSST Defendants in this action. The one remaining claim against the CPSST Defendants was resolved by an order signed by this Court on May 22, 2013. The parties have fully complied with the settlement agreement and the May 22, 2013 Order.

Accordingly, upon due consideration of the Stipulation, the Notice, and the papers on file in this action,

IT IS ORDERED that:

- Consistent with the terms of the Settlement Agreement between the United States,
 Texas, Relator Diana Kulwicki, and the CPSST Defendants, all claims asserted on
 behalf of the United States and Texas against the CPSST Defendants shall be
 dismissed with prejudice. (Dkt. # 69, Exhibit 1, ¶ III.20).
- 2. No claim or allegation other than those as specifically identified in the Stipulation and herein shall be dismissed at this time. This Order has no effect on claims or allegations against any other defendants.

IT IS SO ORDERED,	
THIS DAY OF, 2013	
	Honorable Vanessa D. Gilmore United States District Judge